



June 7, 2002

Mr. Scott A. Kelly  
Deputy General Counsel  
The Texas A&M University System  
John B. Connally Building, Sixth Floor  
301 Tarrow  
College Station, Texas 77840-7896

OR2002-3091

Dear Mr. Kelly:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 163987.

Texas A&M University (the "university") received a request for (1) the most recent draft of the Student Government Association's response to Vision 2020 ("Destination 2020") and (2) all drafts of Imperative Six of Destination 2020. You claim that the requested information is excepted from disclosure under section 552.111 of the Government Code. We have considered the exception you raise and have reviewed the information you submitted.

Section 552.111 of the Government Code excepts from disclosure "an interagency or intraagency memorandum or letter that would not be available by law to a party in litigation with the agency." The purpose of this exception is to protect advice, opinion, and recommendation in the decisional process and to encourage open and frank discussion in the deliberative process. See *Austin v. City of San Antonio*, 630 S.W.2d 391, 394 (Tex. App.--San Antonio 1982, no writ); Open Records Decision No. 538 at 1-2 (1990). In Open Records Decision No. 615 (1993), this office re-examined the statutory predecessor to section 552.111 in light of the decision in *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408 (Tex. App.--Austin 1992, no writ). We determined that section 552.111 excepts from disclosure only those internal communications that consist of advice, recommendations, opinions, and other material reflecting the policymaking processes of the governmental body. See Open Records Decision No. 615 at 5. A governmental body's policymaking functions do not encompass routine internal administrative or personnel matters, and disclosure of information about such matters will not inhibit free discussion of policy issues among agency personnel. *Id.*; see also *City of Garland v. The Dallas Morning News*, 22 S.W.3d 351 (Tex. 2000) (personnel-related communications not involving policymaking not excepted from disclosure under section 552.111).

This office also has concluded that a preliminary draft of a document that is intended for public release in its final form necessarily represents the advice, opinion, and recommendation of the drafter with regard to the form and content of the final document, so as to be excepted from disclosure under the statutory predecessor to section 552.111. *See* Open Records Decision No. 559 at 2 (1990) (applying statutory predecessor). Section 552.111 protects factual information in the draft that also will be included in the final version of the document. *See id.* at 2-3. Thus, section 552.111 encompasses the entire contents, including comments, underlining, deletions, and proofreading marks, of a preliminary draft of a policymaking document that will be released to the public in its final form. *See id.* at 2.

You assert that the submitted information constitutes a draft of a policymaking document that is intended for public release in its final form. You inform us that Vision 2020 is a long-term policy and planning initiative developed by administrators to position the university among the top ten public universities in the United States by the year 2020. You state that the president and chief executive officer of the student government association (the "SGA") is a member of the Vision 2020 Advisory Council, which serves in an advisory role to the university president and provost to facilitate the implementation of Vision 2020. You inform us that the SGA is an officially recognized student organization which is involved, among other things, in the overall policy and decision-making processes of the university. You explain that as part of Vision 2020, the president of the SGA has appointed student government association committees to develop student responses to nine of the twelve imperatives of the Vision 2020 initial report. You state that the submitted information is a draft of the first of these student responses. Based on your representations, we conclude that the submitted information is excepted from disclosure in its entirety under section 552.111 of the Government Code. *See also* Attorney General Opinion JM-36 at 2 (1983) (statutory predecessor applicable if student evaluation was prepared in response to properly authorized request from university administration); Open Records Decision Nos. 466 at 3 (1987) (statutory predecessor applicable to advisory memoranda provided to governmental body by outside consultant with duty to advise governmental body or act on its behalf in official capacity), 273 at 2-3 (1981) (search advisory committee created by university's board of regents came within scope of statutory predecessor).

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the

governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

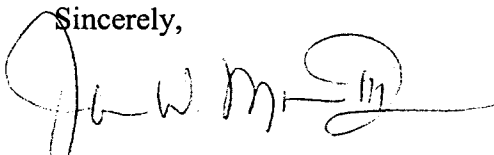
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink, appearing to read "J W Morris III", with a stylized flourish at the end.

James W. Morris, III  
Assistant Attorney General  
Open Records Division

JWM/sdk

Ref: ID# 163987

Enc: Submitted documents

c: Mr. Brady Creel  
999 West Villamaria, #404  
Bryan, Texas 77801  
(w/o enclosures)